

[No Report.]

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**IN THE HOUSE OF REPRESENTATIVES.**

JANUARY 28, 1859.

Read a first and second time, committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

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MR. ALEXANDER H. STEPHENS, by unanimous consent, introduced the following bill:

**A BILL**

To provide a temporary government for the Territory of Arizona, and to create the office of surveyor general therein.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That all that portion of the territory of the United States  
4       included within the following limits, to wit: commencing at  
5       a point where the boundary line of New Mexico intersects  
6       the Colorado river of the west; thence northwardly with said  
7       river to a point where it intersects the parallel of thirty-three  
8       degrees and forty minutes north latitude; thence due east with  
9       said parallel to the boundary of Texas; thence with said bound-  
10      ary of Texas to the Rio Grande; thence down said river, and  
11      so on with the boundary between Mexico and the United States,

12 to the point of beginning, be, and the same is hereby, erected  
13 into a temporary government by the name of the Territory of  
14 Arizona: *Provided*, That nothing in this act contained shall  
15 be construed to inhibit the government of the United States  
16 from dividing said Territory into two or more Territories, in  
17 such manner and at such times as Congress shall deem con-  
18 venient and proper, or from attaching any portion thereof to  
19 any other Territory or State: *And provided further*, That  
20 when admitted as a State the said Territory, or any portion  
21 of the same, shall be received into the Union with or without  
22 slavery, as their constitution may prescribe at the time of  
23 their admission.

1       SEC. 2. *And be it further enacted*, That the executive  
2 power and authority in and over said Territory of Arizona  
3 shall be vested in a governor, who shall hold his office for four  
4 years, and until his successor shall be appointed and qualified,  
5 unless sooner removed by the President of the United States.  
6 The governor shall reside within said Territory; shall be com-  
7 mander-in-chief of the militia thereof; shall perform the duties  
8 and receive the emoluments of superintendent of Indian affairs,  
9 and shall approve all laws passed by the legislative assembly  
10 before they shall take effect; he may grant pardons for offences  
11 against the laws of said Territory, and reprieves for offences  
12 against the laws of the United States until the decision of the  
13 President can be made known thereon; he shall commission

14 all officers who shall be appointed to office under the laws of  
15 said Territory, and shall take care that the laws be faithfully  
16 executed.

1       SEC. 3. *And be it further enacted,* That there shall be a  
2 secretary of said Territory, who shall reside therein, and hold  
3 his office for four years, unless sooner removed by the President  
4 of the United States; he shall record and preserve all the laws  
5 and proceedings of the legislative assembly hereinafter consti-  
6 tuted, and all the acts and proceedings of the governor, in his  
7 executive department; he shall transmit one copy of the laws,  
8 and one copy of the executive proceedings, on or before the  
9 first day of December in each year, to the President of the  
10 United States, and, at the same time, two copies of the laws  
11 to the Speaker of the House of Representatives and the Presi-  
12 dent of the Senate, for the use of Congress. And in case of  
13 the death, removal, or resignation, or other necessary absence  
14 of the governor from the Territory, the secretary shall have,  
15 and he is hereby authorized and required to execute and per-  
16 form, all the powers and duties of the governor during such  
17 vacancy or necessary absence, or until another governor shall  
18 be duly appointed to fill such vacancy.

1       SEC 4. *And be it further enacted,* That the legislative  
2 power and authority of said Territory shall be vested in the  
3 governor and a legislative assembly. The legislative assembly  
4 shall consist of a council and house of representatives. The

5 council shall consist of nine members, which may be increased  
6 to thirteen, having the qualifications of voters as hereinafter  
7 prescribed, whose term of service shall continue two years.  
8 The house of representatives shall consist of eighteen mem-  
9 bers, which may be increased to twenty-six, possessing the  
10 same qualifications as prescribed for members of the council,  
11 and whose term of service shall continue one year. An appor-  
12 tionment shall be made, as nearly equal as practicable, among the  
13 several counties or districts for the election of the council and  
14 house of representatives, giving to each section of the Territory  
15 representation in the ratio of its population, (Indians excepted,)  
16 as nearly as may be. And the members of the council and  
17 of the house of representatives shall reside in, and be inhabit-  
18 ants of, the district for which they may be elected, respectively.  
19 Previous to the first election the governor shall cause a census  
20 or enumeration of the inhabitants of the several counties and  
21 districts of the Territory to be taken; and the first election  
22 shall be held at such time and places, and be conducted in  
23 such manner, as the governor shall appoint and direct; and he  
24 shall, at the same time, declare the number of the members  
25 of the council and house of representatives to which each of  
26 the counties or districts shall be entitled under this act. The  
27 number of persons authorized to be elected having the highest  
28 number of votes in each of said council districts for members of  
29 the council shall be declared by the governor to be duly elected

30 to the council; and the person or persons authorized to be  
31 elected having the greatest number of votes for the house of  
32 representatives, equal to the number to which each county or  
33 district shall be entitled, shall be declared by the governor to  
34 be elected members of the house of representatives: *Provided*,  
35 That in case of a tie between two or more persons voted for,  
36 the governor shall order a new election to supply the vacancy  
37 made by such tie. And the persons thus elected to the legis-  
38 lative assembly shall meet at such place and on such day as the  
39 governor shall appoint; but thereafter, the time, place, and  
40 manner of holding and conducting all elections by the people,  
41 and the apportioning the representation in the several counties  
42 or districts to the council and house of representatives accord-  
43 ing to the population, shall be prescribed by law, as well as  
44 the day of the commencement of the regular sessions of the  
45 legislative assembly: *Provided*, That no one session shall ex-  
46 ceed the term of forty days, except the first, which may be  
47 extended to sixty days, but not longer.

1       SEC. 5. *And be it further enacted*, That every free white  
2 male inhabitant above the age of twenty-one years, who shall  
3 have been a resident of said Territory at the time of the pas-  
4 sage of this act, shall be entitled to vote at the first election,  
5 and shall be eligible to any office within the said Territory;  
6 but the qualifications of voters and of holding office at all sub-  
7 sequent elections shall be such as shall be prescribed by the

8 legislative assembly: *Provided*, That the right of suffrage and  
 9 of holding office shall be exercised only by citizens of the  
 10 United States, including those recognized as citizens by the  
 11 treaty with the republic of Mexico, concluded February second,  
 12 eighteen hundred and forty-eight, and the treaty negotiated  
 13 with the same country on the thirtieth day of December, eigh-  
 14 teen hundred and fifty-three.

1        SEC. 6. *And be it further enacted*, That the legislative  
 2 power of the Territory shall extend to all rightful subjects of  
 3 legislation, consistent with the Constitution of the United  
 4 States and the provisions of this act; but no law shall be  
 5 passed interfering with the primary disposal of the soil; no  
 6 tax shall be imposed upon the property of the United States;  
 7 nor shall the lands or other property of non-residents be taxed  
 8 higher than the lands or other property of residents. All the  
 9 laws passed by the legislative assembly and governor shall be  
 10 submitted to the Congress of the United States, and if disap-  
 11 proved shall be null and of no effect.

1        SEC. 7. *And be it further enacted*, That all township,  
 2 district, and county officers, not herein otherwise provided  
 3 for, shall be appointed or elected, as the case may be, in such  
 4 manner as shall be provided by the governor and legislative  
 5 assembly of the Territory. The governor shall nominate  
 6 and, by and with the advice and consent of the legislative  
 7 council, appoint all officers not herein otherwise provided for;

8 and in the first instance the governor alone may appoint all  
9 said officers, who shall hold their offices until the end of the  
10 first session of the legislative assembly, and shall lay off the  
11 necessary districts for members of the council and house of  
12 representatives, and all other officers.

1        SEC. 8. *And be it further enacted,* That no member  
2 of the legislative assembly shall hold, or be appointed to, any  
3 office which shall have been created, or the salary or emolu-  
4 ments of which shall have been increased while he was a  
5 member, during the term for which he was elected, and for  
6 one year after the expiration of such term; and no person  
7 holding a commission or appointment under the United States,  
8 except postmasters, shall be a member of the legislative  
9 assembly, or shall hold any office under the government of  
10 said Territory.

1        SEC. 9. *And be it further enacted,* That the judicial  
2 power of said Territory shall be vested in a supreme court,  
3 district courts, probate courts, and in justices of the peace.  
4 The supreme court shall consist of a chief justice and two  
5 associate justices, any two of whom shall constitute a quorum,  
6 and who shall hold a term at the seat of government of said  
7 Territory annually, and they shall hold their offices during the  
8 period of four years. The said Territory shall be divided  
9 into three judicial districts, and a district court shall be held in  
10 each of said districts by one of the justices of the supreme

11 court, at such time and place as may be prescribed by law ;  
12 and the said judges shall, after their appointments, respec-  
13 tively, reside in the districts which shall be assigned them.  
14 The jurisdiction of the several courts herein provided for, both  
15 appellate and original, and that of the probate courts and of  
16 the justices of the peace, shall be as limited by law : *Provided,*  
17 That justices of the peace shall not have jurisdiction of any  
18 matter in controversy when the title or boundaries of land  
19 may be in dispute, or where the debt or sum claimed shall ex-  
20 ceed one hundred dollars ; and the said supreme and district  
21 courts, respectively, shall possesss chancery as well as common  
22 law jurisdiction. Each district court, or the judge thereof,  
23 shall appoint its clerk, who shall also be the register in chan-  
24 cery, and shall keep his office at the place where the court  
25 may be held. Writs of error, bills of exception, and appeals,  
26 shall be allowed in all cases from the final decisions of said  
27 district courts to the supreme court, under such regulations as  
28 may be prescribed by law ; but in no case removed to the  
29 supreme court shall trial by jury be allowed in said court. The  
30 supreme court, or the justices thereof, shall appoint its own  
31 clerk, and every clerk shall hold his office at the pleasure of  
32 the court for which he shall have been appointed. Writs of  
33 error, and appeals from the final decisions of said supreme  
34 court, shall be allowed, and may be taken to the Supreme  
35 Court of the United States, in the same manner and under the

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36 same regulations as from the circuit courts of the United  
37 States, where the value of the property, or the amount in con-  
38 troversy, to be ascertained by the oath or affirmation of either  
39 party, or other competent witness, shall exceed one thou-  
40 sand dollars; except only that, in all cases involving title to  
41 slaves, the said writs of error or appeals shall be allowed and  
42 decided by the said supreme court, without regard to the value  
43 of the matter, property, or title in controversy; and except,  
44 also, that a writ of error or appeal shall also be allowed to the  
45 Supreme Court of the United States from the decision of the  
46 said supreme court created by this act, or of any judge thereof,  
47 or of the district courts created by this act, or of any judge  
48 thereof, upon any writ of habeas corpus involving the question  
49 of personal freedom; and each of the said district courts shall  
50 have and exercise the same jurisdiction in all cases arising  
51 under the Constitution and laws of the United States as is  
52 vested in the circuit and district courts of the United States; and  
53 the said supreme and district courts of the said Territory, and  
54 the respective judges thereof, shall and may grant writs of  
55 habeas corpus in all cases in which the same are grantable by  
56 the judges of the United States in the District of Columbia;  
57 and the first six days of every term of said courts, or so much  
58 thereof as shall be necessary, shall be appropriated to the trial  
59 of causes arising under the said constitution and laws; and  
60 writs of error and appeals in all such cases shall be made to

61 the supreme court of said Territory the same as in other cases.  
62 The said clerk shall receive, in all such cases, the same fees  
63 which the clerks of the district courts of Oregon Territory  
64 now receive for similar services.

1       SEC. 10. *And be it further enacted,* That there shall be  
2 appointed an attorney for said Territory, who shall continue in  
3 office for four years, unless sooner removed by the President,  
4 and who shall receive the same fees and salary as the attorney  
5 of the United States for the present Territory of Oregon. There  
6 shall also be a marshal for the Territory appointed, who shall  
7 hold his office for four years, unless sooner removed by the  
8 President, and who shall execute all processes issuing from the  
9 said courts when exercising their jurisdiction as circuit and  
10 district courts of the United States; he shall perform the du-  
11 ties, be subject to the same regulations and penalties, and be  
12 entitled to the same fees as the marshal of the district court of  
13 the United States for the present Territory of Oregon; and  
14 shall, in addition, be paid two hundred dollars annually as a  
15 compensation for extra services.

1       SEC. 11. *And be it further enacted,* That the governor,  
2 secretary, chief justice and associate justices, attorney and  
3 marshal, shall be nominated and, by and with the advice and  
4 consent of the Senate, appointed by the President of the United  
5 States. The governor and secretary to be appointed as afore-  
6 said shall, before they act as such respectively take an oath

7 or affirmation before the district judge, or some justice of the  
8 peace in the limits of said Territory duly authorized to admin-  
9 ister oaths and affirmations by the laws now in force therein, or  
10 before the chief justice or some associate justice of the Su-  
11 preme Court of the United States, to support the Constitution  
12 of the United States and faithfully to discharge the duties of  
13 their respective offices ; which said oaths, when so taken, shall  
14 be certified by the person by whom the same shall have been  
15 taken, and such certificates shall be received and recorded by  
16 the secretary among the executive proceedings ; and the chief  
17 justice and associate justices, and all other civil officers in said  
18 Territory, before they act as such, shall take a like oath or  
19 affirmation before the said governor or secretary, or some  
20 judge or justice of the peace of the Territory who may be  
21 duly commissioned and qualified, which said oath or affirmation  
22 shall be certified and transmitted by the person taking the  
23 same to the secretary, to be by him recorded as aforesaid ;  
24 and afterwards the like oath or affirmation shall be taken,  
25 certified, and recorded in such manner and form as may be  
26 prescribed by law. The governor shall receive an annual salary  
27 of fifteen hundred dollars as governor and one thousand dollars  
28 as superintendent of Indian affairs ; the chief justice and  
29 associate justices shall each receive an annual salary of eighteen  
30 hundred dollars ; the secretary shall receive an annual salary  
31 of eighteen hundred dollars. The said salaries shall be paid

32 quarter yearly at the treasury of the United States. The  
33 members of the legislative assembly shall be entitled to re-  
34 ceive three dollars each per day during their attendance at the  
35 session thereof, and three dollars for every twenty miles' travel  
36 in going to and returning from the said sessions, estimated  
37 according to the nearest usually travelled route. There shall  
38 be appropriated annually the sum of one thousand dollars, to  
39 be expended by the governor, to defray the contingent expenses  
40 of the Territory. There shall also be appropriated annually  
41 a sufficient sum, to be expended by the secretary of the Terri-  
42 tory, and upon an estimate to be made by the Secretary of  
43 the Treasury of the United States, to defray the expenses of  
44 the legislative assembly, the printing of the laws, and other  
45 incidental expenses; and the secretary of the Territory shall  
46 annually account to the Secretary of the Treasury of the  
47 United States for the manner in which the aforesaid sum shall  
48 have been expended.

1        SEC. 12. *And be it further enacted*, That the legislative  
2 assembly of the Territory of Arizona shall hold its first session  
3 at such time and place in said Territory as the governor thereof  
4 shall appoint and direct; and at said first session, or as soon  
5 thereafter as they shall deem expedient, the governor and  
6 legislative assembly shall proceed to locate and establish the  
7 seat of government for said Territory at such place as they  
8 may deem eligible; which place, however, shall thereafter be

9 subject to be changed by the said governor and legislative  
10 assembly.

1       SEC. 13. *And be it further enacted,* That a delegate  
2 to the House of Representatives of the United States, to serve  
3 during each Congress of the United States, may be elected by  
4 the voters qualified to elect members of the legislative assembly,  
5 who shall be entitled to the same rights and privileges as are  
6 exercised and enjoyed by the delegates from the several other  
7 Territories of the United States to the said House of Represen-  
8 tatives. The first election shall be held at such time and  
9 places, and be conducted in such manner, as the governor shall  
10 appoint and direct; and at all subsequent elections, the times,  
11 places, and manner of holding elections shall be prescribed by  
12 law. The person having the greatest number of votes shall  
13 be declared by the governor to be duly elected, and a certificate  
14 thereof shall be given accordingly.

1       SEC. 14. *And be it further enacted,* That when the land  
2 in said Territory shall be surveyed, under the direction of the  
3 government of the United States, preparatory to bringing the  
4 same into market, sections numbered sixteen and thirty-six in  
5 each township in said Territory shall be, and the same is  
6 hereby, reserved for the purpose of being applied to schools  
7 in said Territory, and in the States and Territories hereafter  
8 to be erected out of the same.

1       SEC. 15. *And be it further enacted,* That temporarily,

2 and until otherwise provided by law, the governor of said Ter-  
3 ritory may define the judicial districts of said Territory and  
4 assign the judges who may be appointed for said Territory to  
5 the several districts, and also appoint the times and places for  
6 holding courts in the several counties or subdivisions in each  
7 of said judicial districts by proclamation to be issued by him ;  
8 but the legislative assembly, at their first or any subsequent  
9 session, may organize, alter, or modify such judicial districts,  
10 and assign the judges, and alter the times and places of hold-  
11 ing the courts, as to them shall seem proper and convenient.

1       SEC. 16. *And be it further enacted,* That the Constitu-  
2 tion and all laws of the United States which are not locally  
3 inapplicable shall have the same force and effect within the said  
4 Territory of Arizona as elsewhere within the United States.

1       SEC. 17. *And be it further enacted,* That the Presi-  
2 dent of the United States, by and with the advice and consent  
3 of the Senate, shall be, and he is hereby, authorized to appoint  
4 a surveyor general for Arizona, who shall locate his office at  
5 such place as the Secretary of the Interior shall from time to  
6 time direct, and whose duties, powers, obligations, responsi-  
7 bilities, compensation, and allowances for clerk hire, office  
8 rent, fuel, and incidental expenses, shall be the same as those  
9 of the surveyor general of New Mexico, under the direction  
10 of the Secretary of the Interior, and such instructions as he  
11 may from time to time deem it advisable to give him.

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**IN THE HOUSE OF REPRESENTATIVES.**

JANUARY 28, 1859.

Mr. GROW gave notice of his intention to offer, at the proper time, the following amendment to the sixth section of the bill.

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**AMENDMENT.**

Add at the end of the section the following :

1       And whereas the tract of country comprised within the  
2 limits of the proposed Territory of Arizona was acquired  
3 from the republic of Mexico, and was at the time of its acqui-  
4 sition and by virtue of the laws and constitution of said re-  
5 public free from African slavery, and no such slavery having  
6 been since established by any legal authority, therefore nothing  
7 contained in this act shall be held or taken to authorise African  
8 slavery in said Territory, but that slavery remains abolished  
9 and prohibited therein as at the time of its acquisition from  
10 the republic of Mexico.